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GOLDEN BEAR INSURANCE COMPANY

**UNITED STATES DISTRICT COURT**

**SOUTHERN DISTRICT OF NEVADA**

GOLDEN BEAR INSURANCE COMPANY, a  
California corporation,

Plaintiff,

v.

EVANSTON INSURANCE COMPANY, an  
Illinois corporation; and STARSTONE  
SPECIALTY INSURANCE COMPANY, a New  
Jersey corporation,

Defendants.

Case No. 2:20-cv-00027-RFB-EJY

**STIPULATION AND ~~PROPOSED~~ ORDER TO  
AMEND SCHEDULING ORDER**

**(Second Request)**

**AND RELATED COUNTERCLAIM**

Plaintiff and Counter-Defendant, Golden Bear Insurance Company (“Golden Bear”), Defendant and Counter-Claimant Evanston Insurance Company (“Evanston”) and Defendant Starstone Specialty Insurance Company (“Starstone”), by and through their attorneys of record, hereby stipulate to amend the Court’s September 11, 2020 Order Amending the Scheduling Order (ECF No. 34), pursuant to Local Rule 26-4, to extend the discovery deadline as set forth herein. This is the second stipulation to extend deadlines.

Golden Bear, Evanston and Starstone (“Parties”) require additional time to complete the deposition of a third-party witness, Nancy Ellen Caldwell of RT Specialty based on the following good cause:

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1 This is an insurance coverage action regarding Evanston's and Starstone's purported duty to  
2 defend and indemnify an alleged mutual insured (Henderson Water Park, LLC dba Cowabunga Bay  
3 Water Park ("Cowabunga Bay")) in two underlying personal injury actions and issues of indemnity and  
4 contribution between the Parties.

5 Despite the Parties' diligence, they are unable to complete discovery by December 31, 2020;  
6 specifically, to conduct the deposition of witness, Nancy Ellen Caldwell of RT Specialty. She was  
7 unavailable on the date scheduled to be taken in December, 2020. Her deposition is now scheduled for  
8 January 14, 2021.

9 The Parties agree to extend the discovery deadline solely for the purpose to take and complete the  
10 deposition of Ms. Caldwell. Accordingly, the Parties propose the discovery cut-off be extended to  
11 January 29, 2021.

12 **A. Discovery That Has Been Completed**

13 The Parties have completed the following discovery:

14 1. On April 9, 2020, Evanston served a Subpoena Duces Tecum on third party witness Haas &  
15 Wilkerson.

16 2. On April 9, 2020, Evanston served on Golden Bear its Request for Production of Documents  
17 (Set 1), Interrogatories (Set 1) and Request for Admissions (Set 1), which Golden Bear answered.

18 3. On April 10, 2020, Evanston served its Initial Disclosures Statement.

19 4. On April 10, 2020, Starstone served its Initial Disclosures Statement along with documents  
20 Bates numbered 000001-000046, which Starstone might use to support its claims or defenses.

21 5. On April 14, 2020, Golden Bear served its Initial Disclosures Statement, along with documents  
22 Bates numbered GB00001-GB00066, which Golden Bear might use to support its claims or defenses.

23 6. On April 23, 2020, third party witness Haas & Wilkerson produced documents in response to  
24 Evanston's April 9, 2020 subpoena duces tecum.

25 7. On May 5, 2020, Golden Bear served Evanston its Requests for Production of Documents (set  
26 1), and Requests for Admissions (Set 1) on Evanston, which Evanston answered.

27 8. On May 26, 2020, Golden Bear served its First Supplement to its Initial Disclosures Statement  
28 along with documents Bates numbered GB00067-GB000280.

1 9. On June 16, 2020, Evanston served its Supplemental Initial Disclosures Statement.

2 10. On June 18, 2020, pursuant to the Parties' stipulation, the Court issued a protective order  
3 covering disclosure and discovery activity in this action.

4 11. On June 22, 2020, Evanston produced copies of the documents (pages 001-189) in response to  
5 Golden Bear's Request for Production of Documents (set 1).

6 12. On August 5, 2020, Evanston served a deposition subpoena on third party witness Karen Salas.

7 13. On August 20, 2020, Starstone served Golden Bear with its Request for Admissions (set 1),  
8 Request for Production of Documents (set 1), and Interrogatories (set 1), which were answered.

9 14. On September 10, 2020, the Parties took the deposition of Karen Salas of Haas & Wilkerson in  
10 Fairway, Kansas.

11 15. On October 8, 2020, Golden Bear served StarStone with its Request for Admissions (set 1),  
12 Request for Production of Documents (set 1), and Interrogatories (set 1), which were answered.

13 16. On October 8, 2020, Golden Bear served Evanston with Interrogatories (set 1), which were  
14 answered.

15 17. On November 20, 2020, StarStone served its First Supplement to FRCP Rule 26 Disclosures.

16 18. On December 28, 2020, Golden Bear served its responses to StarStone's second set of  
17 Interrogatories and Requests for Production of Documents.

18 **B. Discovery That Remains to be Completed**

19 The Parties need to complete the following discovery:

- 20 1. The deposition of Nancy Ellen Caldwell of RT Specialty | Binding Authority.

21 **C. Reasons Why Remaining Discovery Was not Completed**

22 Non-expert discovery has not been completed because Ms. Caldwell was unavailable for the  
23 deposition date originally scheduled to be completed before the discovery cut-off. Her deposition is  
24 now scheduled to be taken on January 14, 2021, which is after the discovery cut-off.

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**D. Proposed Schedule for Completing The Outstanding Discovery**

The Parties hereby stipulate to extend the discovery cut-off to January 29, 2021 for the sole purpose of taking Ms. Caldwell's deposition.

**IT IS SO STIPULATED.**

Dated: December 29, 2020

**MCKAY LAW FIRM, CHTD.**

By: /s/ Pamela A. McKay  
Pamela A. McKay  
Attorneys for Plaintiff and Cross-Defendant  
Golden Bear Insurance Company

Dated: December 29, 2020

**CLARK HILL LLP**

By: /s/ Gary A. Hamblet  
Gary A. Hamblet  
Attorneys for Defendant and Counter-Claimant  
Evanston Insurance Company

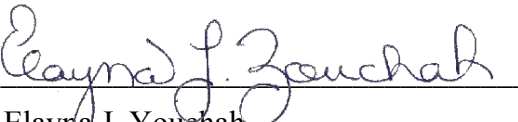
Dated: December 29, 2020

**AMES & AMES, LLP**

By: /s/ Chet Glover  
Chet Glover  
Attorneys for Defendant Starstone Specialty  
Insurance Company

**PURSUANT TO STIPULATION, IT IS SO ORDERED.**

Dated: December 29, 2020

  
Elayna J. Youchak  
United States Magistrate Judge